No. 84-343

Office - Supreme Court, U.S
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In The

Supreme Court of the United States

October Term, 1984

JAMES C. GABRIEL,

Petitioner Pro Se,

vs.

THE INTERSTATE COMMERCE COMMISSION and UNITED STATES OF AMERICA,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

PETITIONER PRO SE'S REPLY TO MEMORANDUM FOR RESPONDENTS IN OPPOSITION

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13pp

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United States Constitution Cited:

Fifth Amendment 5, 6, 7, 9

Fourteenth Amendment 5, 6, 7, 9

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Petitioner James C. Gabriel, Pro Se, denies respondent's allegations in their memorandum in opposition.

Petitioner James C. Gabriel, Pro Se, admits that the judgment order of the United States Court of Appeals for the Third Circuit in this civil case was entered May 3, 1984.

On June 4, 1984, petitioner pro se received a letter from the Office of the Clerk, N.J. Court of Appeals for the Third Circuit, addressed, TO: Secretary, Interstate Commerce Commission, Room 2215, Washington D.C. 20423, with an enclosure to petitioner James C. Gabriel, stating as follows:

> "Re: JAMES C. GABRIEL, Pro Se Petitioner vs. ICC, Etc., Respondents No. 83-3121
>
> Dear Sir:
>
> Enclosed herewith is a certified copy of the judgment order. This certified judgment order is issued in lieu of a formal mandate and is to be treated in all respects as a mandate.
>
> We release herewith the record in the above appeal and will appreciate your signing the enclosed list as a receipt for same.
>
> Counsel are advised of the issuance of the mandate by copy of this letter. A copy of the certified judgment order is also enclosed showing costs taxed, if any.
>
> Very truly yours,
>
> Elizabeth Ferguson
> Chief Deputy Clerk
>
> Enclosure
> Mr. James C. Gabriel
> Neil R. Ellis, Esq.
> John J. Powers III, Esq.
> John T. McCarthy, Jr., Esq."

BEST AVAILABLE COPY

Petitioner also received in the envelope the following judgment order as follows:

"UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 83-3121

JAMES C. GABRIEL,

Petitioner,

v.

INTERSTATE COMMERCE COMMISSION and UNITED STATES OF AMERICA,

Respondents.

On Petition for Review of an Order of the Interstate Commerce Commission
Finance Docket No. 30,000

Submitted Under Third Circuit Rule 12(6)
May 3, 1984

Before: ADAMS, WEIS and VAN DUSEN,
Circuit Judges

JUDGMENT ORDER

After considering the contentions raised by Petitioner, it is

ADJUDGED AND ORDERED that the order of the Interstate Commerce Commission be and is hereby affirmed.

Costs taxed against Petitioner.

BY THE COURT,

s/ M. Adams
Circuit Judge

ATTEST:

s/ Sally Mrvos
Clerk
Received and File
6/4/84"

Petitioner Gabriel Pro Se did not understand the meaning of the letter he received on June 4, 1984 from the Chief Deputy Clerk of the Third Circuit Court of Appeals, when the letter stated:

"Enclosed herewith is a certified copy of the judgment order in the above entitled case," but when he read the second letter which read as follows:

"Received and Filed 6/4/84
Sally Mrvos
Clerk

By the Court,
ADAMS
Circuit Judge

Attest:

Sally Mrvos
Clerk"

it cinched the fact in petitioner's mind that this was the entry

date of the entry of a later judgment by the Third Circuit Court of Appeals.

I had made a motion with an affidavit which I had hand delivered to the Third Circuit Court of Appeals, dated and received May 21, 1984, in which motion I had prayed that the judges of the Court of Appeals should reconsider their denying me my constitutional rights of due process of law evaluation of my Missouri Pacific R.R. Class B common stock property under the Fifth and Fourteenth Amendment, Section 1, whereby the judges of the Court had denied me a court order, ordering the Interstate Commerce Commission to evaluate my MoPac Class B common stock under the Fifth Amendment, the Fourteenth Amendment, Section 1, and under Section 19a of the Interstate Commerce Act, which is for "Valuation of Property of Carriers, in order that the Commission find the true value of my MoPac Class B common stock property.

REGARDING THE SUR PETITION FOR REHEARING EN BANC, petitioner pro se Gabriel has this to state, as follows:

(1) A Petition for Rehearing En Banc which petitioner pro se had petitioned the Court of Appeals for, was denied by a panel of three judges only, "AS TO PANEL REHEARING ONLY," Dated: May 25, 1984 but (a) Petitioner Gabriel had anticipated this Denial, so that previous to the Denial "As to panel rehearing only," on May 21, 1984, petitioner had made a motion with an affidavit, motioning the judges of the Court of Appeals that they make their decisions on rehearings by the judges obeying their oath of office, of "I do solemnly swear (or affirm) that I will . . . PRESERVE, PROTECT AND DEFEND THE CONSTITUTION OF THE UNITED STATES," by the judges enforcing the Constitution of the U.S. which is what their oath of office had stated that the judges will "preserve, protect and defend the Constitution of the U.S.," by the judges enforcing the 5th Amendment, of "No person shall be derpived of life,

liberty, or property, without due process of law;" and by the judges enforcing the 14th Amendment, Section I, by the judges issuing an order, ordering the Interstate Commerce Commission to evaluate petitioner's MoPac "B" common shares under Section 19a of the Act, which is for "valuation of Property of Carriers," in order for the ICC to find the true value of petitioner's Class "B" common shares under the 5th Amendment of "due process of law; by the ICC enforcing the 14th Amendment, Section I, in order that the ICC finds the true value of Class "B" common shares owned by petitioner. In a few words, this was petitioner's way of seeking a further judgment to be entered after the rehearing was denied by the judges of the Appeals Court, which petitioner fully expected and fully anticipated, because of the judges' past behaviour and past performances.

The following is an Exhibit of petitioner's Motion in the Court of Appeals "Received May 21, 1984, U.S.C.A. 3rd Cir." to verify this fact.

"IN THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. Docket No. 83-3121

JAMES C. GABRIEL, Pro Se,

Petitioner,

vs.

INTERSTATE COMMERCE COMMISSION and UNITED STATES OF AMERICA,

Respondents.

MOTION

THE JUDGES OF THIS COURT MUST OBEY THEIR OATH OF OFFICE, OF 'I DO SOLEMNLY SWEAR (OR AFFIRM) THAT I WILL FAITHFULLY EXECUTE THE OFFICE OF JUDGE . . . AND WILL TO THE BEST OF MY ABILITY, PRESERVE, PROTECT AND DEFEND THE CONSTITUTION OF THE UNITED STATES.'

Received May 21, 1984
U.S.C.A. 3rd Cir."

TO: THE CLERK OF THE COURT
HONORABLE SALLY MRVOS"

(2) Petitioner's May 21, 1984 Motion and Affidavit received by the Court of Appeals as explained above, was to have the judges reconsider my anticipated Denial of the rehearing en banc, and for them at the same time consider the fact that they must obey their oath of office, to "preserve, protect and defend the Constitution of the United States" by the judges living up to their oath of office by enforcing the Constitution of the U.S., the 5th and 14th Amendment, Sect. I, by their issuing an Order, ordering the ICC to evaluate petitioner's B Common stock Constitutionally, so that when petitioner received the letter from the Chief Deputy Clerk's office dated May 4, 1984, and received the following letter of Judgment Order dated:

"RECEIVED AND FILED
6/4/84
SALLY MRVOS
Clerk

BY THE COURT,
Adams
Circuit Judge
ATTEST:
Sally Mrvos
Sally Mrvos, Clerk"

Petitioner had assumed by these 2 letters that he had accomplished, when he looked at these 2 letters carefully, the entry of a subsequent judgment denial, dated June 4, 1984, made by the Judges of the Court of Appeals. In petitioner pro se's mind, this date of June 4, 1984, was the new date of denial of the judgment for rehearing, accomplished by my May 21, 1984 motion.

I became convinced that those two letters I had received from the Third Circuit Court of Appeals Chief Deputy Clerk Elizabeth Ferguson, one dated June 4, 1984, and the other also dated June 4, 1984 as I have explained, in addition to my exhibits I have shown, and, in addition to the motion dated May 21, 1984 which I hand delivered to the above Court of Appeals, that I had 90 days in which to present my petition for a writ of certiorari to the United States Supreme Court.

Therefore 90 days from June 4, 1984 fell on Saturday, September 1, 1984. Monday, September 3, 1984 was Labor Day so September 4, 1984 was the due date.

This is the fifth time I have come to the Supreme Court of the United States with a petition for a writ of certiorari, for eleven (11) years I have been fighting for this Supreme Court to help me to get my constitutional rights to have my property in Missouri Pacific R.R. Company Class B equity bearing common stocks evaluated by the ICC, by the Supreme Court of the United States issuing an order, ordering the Interstate Commerce Commission to evaluate my Missouri Pacific Railroad Company Class "B"

equity bearing common stocks under the Fifth Amendment, to be evaluated under the Fourteenth Amendment, Section 1; and under Section 19a (49 U.S.C. Section 19a) of the Interstate Commerce Act, which is for "Valuation of Property of Carriers," so that the Interstate Commerce Commission finds the true value of my property in Missouri Pacific R.R. Class "B" common equity bearing stocks.

After 5 (five) times to the Supreme Court of the United States for a writ of certiorari, to have my constitutional rights to my own property under the Fifth Amendment — "No person shall be deprived of life, liberty, or property, without due process of law;" under the Fourteenth Amendment, Section 1, for the Supreme Court of the United States to order the Interstate Commerce Commission to evaluate my Class "B" railroad stocks in the Missouri Pacific Railroad Co., for the ICC to find the true value of my Class B common stocks under Section 19a of the Act, and under the Fifth Amendment due process of law, and under the Fourteenth Amendment, Section 1.

Therefore it is the constitutional duty of the Honorable Judges of the United States courts to obey their oath of office, and thereby *preserve, protect and defend the Constitution of the United States,* "by ordering the ICC to evaluate petitioner's Class B common stocks under the Fifth Amendment — no person shall be denied life, liberty, or property without due process of law."

CONCLUSION

For the above reasons, petitioner pro se prays that this petition for a writ of certiorari should not be denied by this Honorable Supreme Court of the United States which petitioner pro se believes can see far far beyond an unavoidable and confused and confusing technicality.

If petitioner pro se James C. Gabriel who is 99% right and only 1% wrong could be technically wrong, how could respondents in opposition who are 99% wrong and only 1% right, how could they be technically right?

Respectfully submitted,

JAMES C. GABRIEL
Petitioner Pro Se

Service to: Solicitor General of the U.S.
Dep't.of Justice,Washington,D.C.20530
Office of the General Counsel,John H Broadley,Esq.
John J.McCarthy,Jr.Esq.
Interstate Commerce Commission
12th & Constitution Ave.,Washington,D.C.20423

Office of the Commissioner of Internal Revenue
Hon.Roscoe Eggers
Dep't.of the Treasury
1111 Constitution Ave.
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Hon.William French Smith
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